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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,895	10/12/2001	Mark D. Penk	A-7485	1171

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EXAMINER	
ENGLAND, DAVID E	
ART UNIT	**PAPER NUMBER**
2143	

NOTIFICATION DATE	DELIVERY MODE
02/07/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOmail@sciatl.com

Office Action Summary	Application No.	Applicant(s)	
	09/975,895	PENK ET AL.	
	Examiner	Art Unit	
	David E. England	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16-21,25-40,42,44,46-56,58 and 60-63* is/are pending in the application.

4a) Of the above claim(s) *27-34* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16-21,25,26,35-40,42,44,46-56,58 and 60-63* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 16-21, 25, 26, 35-40, 42, 44, 46-56, 58 and 60-63 in the reply filed on 11/21/2007 is acknowledged.

2. Claims 16-21, 25, 26, 35-40, 42, 44, 46-56, 58 and 60-63 are presented for examination.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 16 – 20, 25, 26, 35 – 40, 42 49 – 53, 57, 58, 61 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rakib et al. U.S. Patent No. 6889385 (hereinafter Rakib) in view of Kenner et al. (6112239) (hereinafter Kenner).

5. Referencing claim 16, as closely interpreted by the Examiner, Rakib teaches a method for enabling a receiver in a digital subscriber network to request services, the method comprising the steps of:

6. receiving, at a receiver, a dynamic network information table inserted within a transport stream from a first device, (e.g., col. 9, line 41 – col. 10, line 22, *"menu"*); and

7. the dynamic network information table including a device-specific subtable, (e.g., col. 9, line 41 – col. 10, line 22, *"PID"*);

8. the device-specific subtable including information associated with transmission characteristics of the first device, the first device positioned in the digital subscriber network upstream with respect to the receiver, (e.g., col. 9, line 41 – col. 10, line 22, *"PID that is associated with the sending node"*);

9. transmitting a request for a service, the requested service including at least a portion of the information included in the dynamic network information table, (e.g., col. 9, line 41 – col. 10, line 22), but does not specifically teach the dynamic network information table including an upstream subtable;

10. the upstream subtable including information associated with transmission characteristics of one or more devices positioned in the digital subscriber network upstream with respect to the first device.

11. Kenner teaches the dynamic network information table including an upstream subtable, (e.g., col. 18, line 51 – col. 19, line 16 et seq.);

12. the upstream subtable including information associated with transmission characteristics of one or more devices positioned in the digital subscriber network upstream with respect to the first device, (e.g., col. 18, line 51 – col. 19, line 16 et seq.); and

13. transmitting a request for a service, the requested service including at least a portion of the information included in the dynamic network information table, (e.g., col. 18, line 51 – col. 19, line 16 & col. 20, line 51 – col. 21, line 15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Kenner specific sublists with Rakib

because splitting a network table into subtables would alleviate a table from becoming too large and overburdened with requests. Therefore, utilizing subtables can alleviate request for information from a main table or database, see Kenner, column 18, lines 53 et seq.

14. Referencing claim 17, as closely interpreted by the Examiner, Rakib teaches identifying from the dynamic network information table and upstream device associated with the requested service, (e.g., col. 9, line 41 – col. 10, line 22); and

15. including the identification of the upstream device in the transmitted request for the service, (e.g., col. 9, line 41 – col. 10, line 22).

16. Referencing claim 18, as closely interpreted by the Examiner, Rakib teaches identifying a controller associated with the identified upstream device, (e.g., col. 9, line 41 – col. 10, line 22, *"cherry picker"*);

17. wherein transmitting the request for the service includes transmitting the request to the controller, (e.g., col. 9, line 41 – col. 10, line 22).

18. Referencing claim 19, as closely interpreted by the Examiner, Rakib teaches determining a communication path through the digital subscriber network for the requested service, (e.g., col. 10, line 23 – col. 11, line 11); and

19. including the communication path in the transmitted request for the service, (e.g., col. 10, line 23 – col. 11, line 11).

20. Referencing claim 20, as closely interpreted by the Examiner, Rakib teaches the communication path is determined based upon network information included in the received dynamic network information table, (e.g., col. 9, lines 8 – 40).

21. Referencing claim 25, as closely interpreted by the Examiner, Rakib teaches the dynamic network information table is included in a packet having a reserved packet identifier associated therewith, (e.g., col. 10, line 23 – col. 11, line 11).

22. Referencing claim 26, as closely interpreted by the Examiner, Rakib teaches the packet is a program association table packet, (e.g., col. 10, line 23 – col. 11, line 11).

23. Referencing claim 37, as closely interpreted by the Examiner, Rakib teaches the second transport stream includes multiple elementary streams of the first transport stream, (e.g., col. 38, line 52 – col. 39, line 24, *"channels and subchannels"*).

24. Referencing claim 50, as closely interpreted by the Examiner, Rakib teaches the network information includes a transport stream identifier (TSID) for the received transport stream, (e.g., col. 10, line 43 – col. 11, line 11).

25. Claims 35, 36, 38 – 40, 42, 49, 51 – 53, 57, 58, 61 and 63 are rejected for similar reasons as stated above.

26. **Claims 21 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rakib and Kenner in view of Addington (6928656).**

27. As per claim 21, as closely interpreted by the Examiner, Rakib and Kenner do not specifically teach the dynamic network information table includes available bandwidth of at least one upstream communication link in the digital subscriber network. Addington teaches the dynamic network information table includes available bandwidth of at least one upstream communication link in the digital subscriber network, (e.g., col. 6, lines 49 – 61). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Addington with the combine inventions of Rakib and Kenner because sending bandwidth data between servers and client while setting up a connection would set the parameters of the network connections so that proper allocation of bandwidth can be utilized across the network devices.

28. Claim 54 is rejected for similar reasons as stated above.

29. Claims 44, 46, 47, 60 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rakib and Kenner in view of Nobakht et al. (6813639) (hereinafter Nobakht).

30. As per claim 44, as closely interpreted by the Examiner, Rakib and Kenner do not specifically teach the first dynamic network information table is included in a program

association table of the first transport stream. Nobakht teaches the first dynamic network information table is included in a program association table of the first transport stream, (e.g. col. 11, lines 29 – 64 & Figure 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Nobakht with the combine inventions of Rakib and Kenner because of similar reasons stated above.

31. As per claim 46, as closely interpreted by the Examiner, Rakib and Kenner do not specifically teach the second dynamic network information table is included in a program association table of the second transport stream. Nobakht teaches the second dynamic network information table is included in a program association table of the second transport stream, (e.g. col. 11, lines 29 – 64 & Figure 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Nobakht with the combine inventions of Rakib and Kenner because of similar reasons stated above.

32. As per claim 47, as closely interpreted by the Examiner, Rakib teaches the transmitter is a plurality of transmitters, each transmitter having an identifier associated therewith, and the processor is adapted to create a dynamic network information table having a transmitter identifier included therein for each transmitter, (e.g. col. 37, line 40 – col. 38, line 25).

33. Claims 60 and 62 are rejected for similar reasons as stated above.

34. Claims 48 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rakib and Kenner in view of Nakamura et al. (5913039) (hereinafter Nakamura).

35. As per claim 48, as closely interpreted by the Examiner, Rakib and Kenner do not specifically teach the processor is further adapted to monitor the first communication link and respond to changes in the first communication link by generating an alert message and sending the alert message to the transmitter, wherein the transmitter transmits the alert message through the second communication link.

36. Nakamura teaches the processor is further adapted to monitor the first communication link and respond to changes in the first communication link by generating an alert message and sending the alert message to the transmitter, wherein the transmitter transmits the alert message through the second communication link, (e.g. col. 10, line 28 – col. 11, line 13 & col. 11, line 35 – col. 12, line 7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Nakamura with the combine inventions of Rakib and Kenner because once the server control unit gives the signal to the transmission video name in the transmission schedule table in job scheduling storage unit, the timer of the client in alarm interrupt unit starts and therefore aiding in the scheduling of which data streams to store in a device.

37. Claim 56 is rejected for similar reasons as stated above.

38. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rakib and Kenner in view of Pecus et al. (6886029) (hereinafter Pecus).

39. As per claim 55, Rakib and Kenner do not specifically teach the network information includes bit error information. Pecus teaches the network information includes bit error information, (e.g., col. 30, lines 5 – 19). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Pecus with the combine inventions of Rakib and Kenner because utilizing a bit error rate allows the users node identify when a transmission is not complete and what packets need to be re-transmitted therefore allowing a complete transmission.

Response to Arguments

40. Applicant's arguments filed 01/22/2007 have been fully considered but they are not persuasive.

41. In the Remarks, Applicant argues in substance that Kenner does not teach the sublists described in the amended claim 16.

42. As to the first Remark, Examiner's interpretation stems from parts of Applicant's drawings, primarily Figure 11. The "subtables" taught by the Applicant is nothing more then a group of data about devices. Since the Applicant's claims are void on what specifically is contained in the tables it can be interpreted broadly. It is known in the networking art that packets have header which contain information about the senders and receivers. Rakib teaches

the first "subtable" as information contained in a PID. This is also a possibility that the Applicant states in their specification. Kenner teaches the second subtable or as disclosed a sublist, which is substantially the same thing, with multiple device information for a user to utilize in order to find a node that suits their needs. Therefore in a combination the prior art teaches the claimed invention.

43. In the Remarks, Applicant argues that the prior art does not teach claims 27-34.

44. As to this remark, Applicant is reminded that these claims are now withdraw and will no-longer be considered in further office action unless the applicant amends the pending claims in incorporate the withdrawn claim subject matter.

45. All other remarks can be addressed in the same light as the response to the remarks to claim 16.

Conclusion

46. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

SUPERVISORY PATENT EXAMINER NATHAN FLYNN

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 571-272-3912. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David E. England
Examiner
Art Unit 2143

DE